

Chapter 22

The French Declaration of the Rights of Man and Citizen 1789

The founding of the Republic of the United States of America provided a model for other peoples chafing under oppressive rule to emulate. Not surprisingly then, when the French movement to end political injustices turned to revolution in 1789 and the revolutionaries convened at the National Assembly, the Marquis de Lafayette (1757-1834), hero of the American Revolution, proposed a Declaration of the Rights of Man and Citizen. Lafayette had the American Declaration in mind, and he had the assistance of Thomas Jefferson, present in Paris as the first United States ambassador to France.

While the resulting document appealed to the French revolutionaries, the French were not able to start afresh as the Americans had done. In 1789 Louis XVI was still king of France. He could not be made to leave by a turn of a phrase. Nor were men created equal in France in 1789. Those born into the nobility led lives different from those born into the Third Estate (the 99 percent of the population who were not nobility or clergy), and they had different legal rights as well. This disparity was precisely what the revolutionaries and the Declaration sought to change. Inevitable, though, such change would prove to be a more violent and revolutionary proposition than it had been in the American colonies.

In what ways did the Declaration of the Rights of Man and Citizen resemble the American Declaration of Independence? In what ways was it different? Which was more democratic?

Thinking Historically

The French Declaration is full of abstract, universal principles. But notice how such abstractions can claim our consent by their rationality without informing us as to how they will be implemented. What is meant by the first right, for instance? What does it mean to say that men are “born free”? Why is it necessary to distinguish between “born” and “remain”? What is meant by the phrase “general usefulness”? Do statements like these increase people’s liberties, or are they intentionally vague so they can be interpreted at will?

The slogan of the French Revolution was “Liberty, Equality, Fraternity.” Which of the rights in the French Declaration emphasize liberty, which equality? Can these two goals be opposed to each other? Explain how.

The representatives of the French people, organized in National Assembly, considering that ignorance, forgetfulness, or contempt of the rights of man are the sole causes of public misfortunes and of the corruption of governments, have resolved to set forth in a solemn declaration the natural, inalienable, and sacred rights of man,

- in order that such declaration, continually before all members of the social body, may be a perpetual reminder of their rights and duties;
- in order that the acts of the legislative power and those of the executive power may constantly be compared with the aim of every political institution and may accordingly be more respected;
- in order that the demands of the citizens, founded henceforth upon simple and incontestable principles, may always be directed towards the maintenance of the Constitution and the welfare of all.

Accordingly, the National Assembly recognizes and proclaims, in the presence and under the auspices of the Supreme Being, the following rights of man and citizen.

1. Men are born and remain free and equal in rights; social distinctions may be based only upon general usefulness.
2. The aim of every political association is the preservation of the natural and inalienable rights of man; these rights are liberty, property, security, and resistance to oppression.
3. The source of all sovereignty resides essentially in the nation; no group, no individual may exercise authority not emanating expressly therefrom.
4. Liberty consists of the power to do whatever is not injurious to others; thus the enjoyment of the natural rights of every man has for its limits only those that assure other members of society the enjoyment of those same rights; such limits may be determined only by law.
5. The law has the right to forbid only actions which are injurious to society. Whatever is not forbidden by law may not be prevented, and no one may be constrained to do what it does not prescribe.
6. Law is the expression of the general will; all citizens have the right to concur personally, or through their representatives, in its formation; it must be the same for all, whether it protects or punishes. All citizens, being equal before it, are equally admissible to all public offices, positions, and employments, according to their capacity, and without other distinction than that of virtues and talents.
7. No man may be accused, arrested, or detained except in the cases determined by law, and according to the forms prescribed thereby. Whoever solicits, expedites, or executes arbitrary orders, or have them executed, must be punished; but every citizen summoned or apprehended in pursuance of the law must obey immediately; he renders himself culpable by resistance.
8. The law is to establish only penalties that are absolutely and obviously necessary; and no one may be punished except by virtue of a law established and promulgated prior to the offence and legally applied.
9. Since every man is presumed innocent until declared guilty, if arrest be deemed indispensable, all unnecessary severity for securing the person of the accused must be severely repressed by law.
10. No one is to be disquieted because of his opinions, even religious, provided their manifestation does not disturb the public order established by law.
11. Free communication of ideas and opinions is one of the most precious of the rights of man. Consequently, every citizen may speak, write, and print freely, subject to responsibility for the abuse of such liberty in the cases determined by law.
12. The guarantee of the rights of man and citizen necessitates a public force; therefore, it is instituted for the advantage of all and not for the particular benefit of those to whom it is entrusted.
13. For the maintenance of the public force and for the expenses of administration a common tax is indispensable; it must be assessed equally on all citizens in proportion to their means.
14. Citizens have the right to ascertain, by themselves or through their representatives, the necessity of the public tax, to consent to it freely, to supervise its use, and to determine its quota, assessment, payment, and duration.
15. Society has the right to require of every public agent an accounting of his administration.
16. Every society in which the guarantee of rights is not assured or the separation of powers not determined has no constitution at all.
17. Since property is a sacred and inviolate right, no one may be deprived thereof unless a legally established public necessity obviously requires it, and upon condition of a just and previous indemnity.